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SUPREME COURT OF UNITED STATES
CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SECOND CIRCUIT

JOHN TIMOTHY REED

V

CARL AJELLO ATTORNEY GENERAL
OF CONNECTICUT JACK HANBERRY
WARDEN U.S. PENITENTIARY
AT ATLANTA GEORGIA

80-6504

NO.

ON WRIT CERTIORARI
TO THE UNITED STATES
COURT OF APPEALS
FOR THE SECOND CIRCUIT

JOHN TIMOTHY REED
PETITIONER PRO SE
PO BOX 1000
MARION ILLINOIS
62959

STATUTE LAW

TITLE 28 U.S.C. 2241 eT SEQ.
28 U.S.C. 1446 (E)
18 U.S.C. APP. 2ART IV (a)
ART. III AND RT. IV
TITLE 28 2243
28 U.S.C.[1915(d)
Title 28 U.S.C. 2403

MOTION FOR LEAVE TO PROCEED APPEAL

ON TYPE WRITTEN FORM

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS
AND AFFIDAVIT OF POVERTY

CERTIFICATE OF SERVICE

CASE LAW

U.S. V DICKINSON 465 F2d 496 (ca5 1972)

SEE eg PEOPLE WYNN 2173 (MICH 1977)

eg WALLACE V. LYNN 507 F2d 1186 (D.C. CIR. 1974))

JONES V HENDERSON 495 Fed559 5TH CIR. 1974)

JONES V. CARLSON 495 Fed 209 (5TH CIR. 1974)

PADEN V.UNITED STATES 430 F 2ED 882 (5TH CIR.(1970)

CHIN YOW V.U.S. 1908 28 S.C.T 201, 208 U.S. 852 1.Ed 369.

IN RE STRAVSS N.Y. 1903 F. 327 63 S. CT. 535 197 U.S. 324 47 1. Ed 774

EXPARTE BROWN D. C. N. Y. 1886, 28 F. 653

EX PARTE MORGAN D.C. DC ARK 1883, 20 F. 298

HARPER V. WALL, D. C. N J. 1949, 85 F SUPP.783.

CUYLER V ADAMS NO. 78 1841

EXHIBITS

(A) TIME SHEET EXHIBIT (A)

(B) JUDGMENT AND COMMITMENT EXHIBIT (B)

(C) MITTIMUS ISSUED JUNE 18, 1971 EXHIBIT (C)

(D) ORDER EXHIBIT (D)

(E) MEMORANDUM OF DECISION AND ORDER

(F) DOCKET ENTRY EXHIBIT (F)

(G) CERTIFCATE OF PROABLE CAUSE

(H) PRISONER REMAND OR ORDER TO DELIVER EXHIBIT(H)

(I) WRIT OF HABEAS CORPUS AD PROSEQUENDUM EXHIBIT (I)

(J) PAROLE SLIPS EXHIBIT (J)

SUPREME COURT OF UNITED STATES

CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SECOND CURCUIT NO.

JOHN TIMOTHY REED

V.

CARL A JELLO, A TTORNEY GENERAL
OF CONNECTICUT JACK HANBERRY
WARDEN US. PENITENTIARY AT ATLANTA, GEORGIA

PROOF OF CERTIFICATE OF SERVICE

I, JOHN TIMOTHY , HEREBY CERTIFY THAT I HAVE SERVED A TRUE AND CORRECT COPY OF THE FOREGOIN G WRIT CERCIORARI UPON THE ATTORNEY OF UNITED STATES , UPON THE ATTORNEY GENERAL OF CONNECTICUT. BY PLACING SAIDI IN A SEALED PREPAID ENVELOPE ADDRESSED TO Office of Attorney General of United States Sup. Ct of U.S. Wash. D.C. 20543. Carl A Jello Attorney General of Connecticut. Office of The Clerk New Haven, Conn. 06505.

JOHN REED
John Reed
PETITIONER PR O SE

Authorized by the Act of July 7, 1955
to Administer Oaths (28 U. S. C. 4 [illegible]

P O BOX 1000

04-01-81

MARION , ILLINOIS

62959

SUPREME COURT OF UNITED STATES
CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SECOND CIRCUIT

JOHN TIMOTHY REED

V

CARL AJELLO ATTORNEY GENERAL NO.

OF CONNECTICUT JACK HANBERRY

WARDEN US. PENITENTIARY

AT ATLANTA GEORGIA

MOTION FOR LEAVE TO PROCEED ON APPEAL
ON TYPE-WRITTEN FORMS

COMES THE PETITIONER JOHN TIMOTHY REED AND MOVES THIS COURT FOR LEAVE TO PROCEED ON THIS APPEAL ON TYPE-WRITTEN FORMS. APPELLANT, IN SUPPRT OF THIS MOTION, REPRESENTS THAT HE IS UNABLE, DUE TO HIS POVERTY AND IMPRISONMENT, TO HAVE HIS BRIEFS AND OTHER PRINTED IN STANDARD FORM AS REQUIRED BY THE RULES THIS COURT.

RESPECTFULLY SUBMITTED
John Reed
JOHN TIMOTHY REED
APPELLANT PRO SE
PO BOX 1000
MARION, ILLINOIS 62959

Authorized by the Act of July 7, 1955
to Administer Oaths (28 U.S.C. 459)

J B Hamm
04-02-81

SUPREME COURT OF UNITED

CERTIORARI TO THE UNITED STATES

COURT OF APPEALS FOR THE SECOND

JOHN TIMOTHY REED

V.

CARL AJELLO, ATTORNEY GENERAL OF

CONNECTICUT JACK HANBERRY

WARDEN US. PENITENTIARY AT

ATLANTA, GEORGIA

NO.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

COMES THE PETITIONER JOHN TIMOTHY REED AND MOVES THIS COURT FOR LEAVE TO PROCEED IN THIS ACTION IN FORMA PAUPERIS PURSUANT TO 28 U.S.C. & 1915 (D) WITHOUT FIRST BEING REQUIRED TO PRE-PAY FEES AND COSTS OR OTHERWISE BEING REQUIRED TO GIVE SECURITY THEREFOR.

IN SUPPORT OF THIS MOTION PETITIONER HAS ATTACHED HIS AFFIDAVIT OF POVERTY HERETO.

Authorized by the Act of July 7, 1955
to Administer Oaths [illegible]

04-02-81

RESPECTFULLY SUBMITTED,

John Reed

JOHN TIMOTHY REED
PETITIONER PRO SE
PO BOX 1000
MARION, ILLINOIS
62959

SUPREME COURT OF UNITED STATES
CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE SECOND CIRCUIT

JOHN TIMOTHY REED

V.

CARL AJELLO, ATTORNEY GENERAL OF
CONNECTICUT JACK HANBERRY
WARDEN US. PENITENTIARY
ATLANTA, GEORGIA

AFFIDAVIT OF POVERTY

JOHN TIMOTHY REED , BEING FIRST DULY SWORN ACCORDING TO LAW,
DEPOSES AND SAYS.

(1) I AM THE PLAINTIFF IN THE ABOVE TITLED ACTION,

(2) I BRING THIS IN GOOD FAITH ,

(3) I BELIVE THAT I AM ENTITLED TO THE REDRESS SOUGHT IN
THIS ACTION.

(4) I HAVE READ KNOW THE CONTENTS OF THE COMPLAINT AND BELIEVE
THEM TO BE TRUE.

(5) THE ONLY MONEY I OWN IS THAT SENT TO ME BY MY FAMILY FOR THE
PURPOSE OF PERSONAL HYGIENE. I PRESENTLY HAVE $0.00 in my
prison account. (SEE ATTACHMENT A OF THIS AFFIDAVIT, WHICH
IS THE WARDEN'S CERTIFICATE OF THE AMOUNT OF MONEY PRESENTLY
IN MY ACCOUNT)

(6) other than the above money receive by me FROM MY FAMILY
I HAVE NO OTHER INCOME AND HAVE NOT WORKED AT A PAYING
JOB ON THE OUTSIDE SINCE 1969.

(7) BECAUSE OF MY POVERTY I AM UNABLE TO PAY THE COSTS OF
THIS ACTION, TOGIVE SECURITY THEREFOR OR TO EMPLOY AN ATTORN

(8) I UNDERSTAND THAT ANY STATEMENT MADE BY ME IN THIS AFFIDAVIT
THAT IS NOT TRUE AND CORRECT TO THE OF MY KNOWLEDGE AND
BELIEFS WILL SUBJECT ME TO THE PENALTIES OF PERJURY.

John Reed

JOHN REED 95026 131
PEPITIONER PRO SE
MARION, ILLINOIS

Authorized by the Act of July 7, 1958
to Administer Oaths (28 U. S. C. 459)

SUPREME COURT OF UNITED STATES

JOHN TIMOTHY REED

V

CARL AJELLO ATTORNEY GENERAL

OF CONNETICUT JACK HAMBERRY

WARDEN U.S. PENITENTIARY

AT ATLANTA GEORGIA

NO.

ON WRIT CERTIORARI

TO THE UNITED STATES

COURT OF APPEALS

FOR THE SECOND CIRCUIT

COMES THE PETITIONER JOHN TIMOTHY REED AND MOVES THIS COURT PURSUANT TO TITLE 28 U. S. C. 2403 . TO ISSUE A WRIT OF HABEAS CORPUS. IN SUPPORT OF HIS PETITION, PETITIONER SHOWS AND ALLEGES:

PETITIONER IS PRESENTLY SERVING A SENTENCE OF 19 YEARS FOR BANK ROBBERY REG. ADULT SENTENCE IN VIOATION OF TITLE 18, SECTION 2113A,B IMPOSED BY UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT. ON THE 2nd DAY OF OCTOBER 1970 SENTENCE WAS IMPOSED BY HONORABLE JUDGE ROBERT C. ZAMPANO, UNITED STATES DISTRICT JUDGE.

A COPY OF THE TIME SHEET , INDICTMENT, JUDGMENT AND SENTENCE ARE ATTACHED HERETO AND MARKED AS EXHIBET (A)

RESPECTIVELY, PETITIONER IS PRESENTLY CONFINED IN THE PENITENTIARY AT MARION ILLINOIS PO BOX 1000.

(1) THAT THE METERIAL FACTS WERE NOT ADEQUATELY DEVELOPED AT THE STATE COU RT .

(2) THAT THE STATE COURT LACKED JURISDICTION OF THE SUBJECT MATTER OR OVER THE PERSON OF THE Petitioner IN A STATE COURT PROCEEDING.

(3) THAT THE PETITIONER DID NOT RECEIVE A FULL, FAIR AND ADQUOTE HEARING IN THE STATE COURT PROCEEDING.

(4) THAT THE PETITIONER WAS OTHERWISE DENIED DUE PROCESS OF LAW IN THE STATE COURT PROCEEDINGS

(5) NOT PRESENT IN COURT TO CONTEST REMOVAL TO STATE PRISON AFTER SERVERSE OF FEDERAL SENTENCE PAROLE DATE JANUARY 24, 1980.

STATEMENT OF FACTS

(1) PETITIONER WAS DENIED DUE PROCESS OF LAW WHEN THE METERIAL FACTS WERE NOT ADEQUATELY DEVELOPED AT THE STATE COURT HEARING.

(2) PETITIONER WAS DENIED DUE PROCESS BY ADMINISTRATIVE AUTHORITY BY BEING DENIED HIS RIGHT TO CONTEST EXTRIDITION IN ASTATE COURT PROCEDING.

(3) PETITIONER WAS DENIED DUE PROCESS BY PRISON AUTHORITY.BY THE Sheriff REFUSING TO REMOVE THE PETITIONER PERSON TO THE FULDON COUNTY SUPERIOR COURT ATLANTA GEORGIA TO RECEIVE AN ADQUATE HEARING IN A STATE COURT PROCEEDING.

(4) PETITIONER WAS DENIED DUE PROCESS BY NOT BEING PRESENT TO START THE PROCESS OF EXTRIDITION AFTER SERVERSE OF FEDERAL SENTENSE. PAROLE DATE JANUARY 24, 1980.

BRIEF IN SUPPORT OF STATEMENT OF FACTS

PETITIONER AN INMATE AT ATLANTA FEDERAL PENITENTIARY RECEIVE INITIAL PAROLE HEARING ON OCTOBER 14, 1976. POLLOWING WITCH PAROLE WAS DENIED. PETITIONER RECEIVED A SECOND PAROLE HEARING ON NOVEMBER23, 1979. POLLOWING WITCH PAROLE WAS GRANTED JANUARY 24, 1980 TO THE DETAINING AUTHORITY ONLY. AT THE N OVEMBER PAROLE H EARING THE PROCESS OF EXTRIDITION WAS MADE PART OF TH E PROCEEDING AND PAROLE WAS STILL GRANTED TO THE DETAINING AUTHORITY ONLY .

PETITIONER WAS DENIED THE RIGHT TO BE PRESENT AT THE FULDON COUNTY SUPERIOR COURT BY PRISON OFFICIAL TO START THE PROCESSOF EXTRIDITION TOTHE STATE OF CONNECTICUT TO SERVE A SENTENCE OF LIFE IMPRISONMENT FOR THE CRIME OF SECOND DEGREE MURDER.

PETITIONER SIGNED FOR PAROLE AT THE NOVEMBER PAROLE HEARING.

THE REGIONAL OFFICE FILED A MEMORANDUM JANUARY 1980,WHICH STATES THAT EXTRIDITION WAS DISCUSSED AND IF THE CONNECTICUT DETAINER WAS REMOVED THE BOA WOULD RECONCIDER IT"S DECISION OF NOV. 1979.

CONNECTICUT AUTHORITY WERE NOTIFY, THEY DID NOT ARRANGE ANY PROCESS TO REMOVE

[redacted] THE PETITIONER TO THE CONNECTICUT STATE PRISON TO SERVE THE SENTENCE OF LI FOR SECOND DEGREE MURDER ATTACHED HERETO IS THE MITTIMUS ISSUED JUNE 18,1971 as EXHIBIT, C.

PETITION FOR WRIT OF HABEAS CORPUS CIVIL ACTION NO.C79-714 A, WAS FILED AND TH COURT ERRED BY NOT ORDERING THE SHERFF"S OFFICE TO START THE PROCESS OF EXTRI TION AT THE FULDON COUNTY SUPORIOR COURT ATLANTA GEORGIA.

THE DICTRICT COURT AT ATLANTA GEORGIA ERRED BY TRANSPERRING THE PETITION FOR WRIT OF HABEAS CORPUS TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CONNECTICUT. CIVIL NO. N_79-130 CIVIL NO. N-79-131.

THIS PETITION WAS DENIED SEPTEMBER OF 1980 ATTACHED HERETO IS A COPY OF DECIS EXHIBIT, D.

THE UNITED STATES DISTRICT COURT OF CONNECTICUT ERRED BY NOT TRANSPERING THE CASE TOTHE FULDON COUNTY SUPERIOR COURT TO START THE PROCESS OF EXTRIDITION.

THE UNITED STATES DISTRICT COURT ERRED BY [redacted] denying MOTION FOR RECONSIDERATION ATTACHED HERETO DOCKET ENTRY TO SHOW THE COURT HOW THE DISTRICT COURT ERRED BY DENING THE MOTION FOR RECONSIDERATION WITHOUT OPINION. Exhibit P

THE UNITED STATES COURT OF APPEALS SECOND CIRCUIT ERRED BY DENING [redacted] A MOTION FOR CERTIFICATE OF PROABABLE CAUSE.

(EXTRADITE)

(1) DELIVER UP A PRISON OR FUGITURE TO ANOTHER NATION OR JURISDICTION

(2) SECURE CUSTODY OF A PERSON BY EXTRIDITION .

RESON FOR CONTESTING EXTRIDITION

PETITIONER STSTE TRIAL CONDUCTED WITHOUT AUTHORITY. NO WRIT OF HABEAS CORPUS ADPROSEQUNDUM ISSUED BY THE SUPERIOR COURT HOLDEN AT NEW HAVEN CONNECTICUT TO OBTAIN CUSTODY OF PETITIONER PERSON FOR TRIAL NO. 15866 STATE OF CONNECTICUT Vs JOHN REED AKA JOHN REID NEW HAVEN COUNTY MITTIMUS ISSUED JUNE 18,1971. EXHIBET C, A FEDERAL REMAND ORDER SHOWS THE COURT THAT PETITIONER WAS A FEDERAL PRISONER ON TRIAL IN A STATE SOVERDIAN WITH OUT AUTHORTHY. A COPY OF THE REMAND ORDER IS ATTACHED HERETO. Exhibet H.

LAW POINTS

HABE AS CORPUS WRIT ADPROSEQUNDUM NOT COVERED BY DETAINERS AGREEMENT.

JURISDITION REMOVAL PETITIONS SEE U. S. V DICKINSON 465 FED 496 (CA5 1972)

(THE RULE THAT INVALID COURT ORDER
MUST NEVERTHESS BE OBEYED UNTIL
SET ASIDE PRESUPPOSES THE EXISTENCE
OF AT LEAST THREE CONDITION.)
(1 THE COURT ISSUING THE ORDER MUST ENJOY
SUBJECT MATTER AND PERSONAL JUR-
ISDICTION OVER THE CONTROVERSY
(2)ADEQUATE AND EXPEDITIVE PROCEDURES
MUST BE AVAILABLE FOR ORDERLY
REVIEW OF THE CHALLENGED RULING
AND
(3) THE ORDER MUST NOT REQUIRE AN
IRREDRIEVABLE SURRENDER OF
CONSTITUTIONAL GUARANTEES

28 USC 1446 (E) PROVIDES THAT UPON FILING OF A REMOVAL

PETITION AND NOTICE TO THE STATE COURT THAT COURT (SHALL)

PROCEED NO FURTHER UNLESS AND UNTIL THE CASE IS REMANDED

SEE ec PEOPLE V WYRK 21 CRL
(3173) (MICH 1977)

IN ANOTHER CASE STATE OF NEW JERSEY COUNTY OF MONMOUTH V JOHN REED, ISSUED A WRIT OF HABEAS CORPUS ADPROSEQUENDUM TO A FEDERAL PRISONER TO SECURE CUSTODY FOR PRISONER PERSON FOR TRIAL IN THE COUNTY OF MONMOUTH STATE OF NEW JERSEY ATTACHED HERETO IS A COPY OF SAID WRIT. TO SHOW THE COURT HOW A FEDERAL PRISONER CUSTODY IS OBTAINED. Exhibet I.

THIS PROCESS DID NOT TAKE PLACE AT THE SUPERIOR COURT HOLDIN AT NEW HAVEN CONNECTICUT OR WAS THERE TRANSFER OF CUSTODY MADE EITHER PURSUANT TO A WRITTEN REQUEST FOR TEMPORARY CUSTODY UNDER THE INTER STATE AGREEMENT ON DETAINERS 18usc APP. 2ART. IV(A) OR PURSUANT TO A WRIT OF HABEAS CORPUS ADPROQUENDUM.

THE COURT ERRED BY NOT ISSUING A WRIT TO SECURE CUSTODY OF PETITIONERP PERSON FOR TRIAL IN A STATE SOVERGIN .

CASES WH ERE THE ALLEDGED ERROR WHETHER IT BE CONSTITUTIONAL OR OTHERWISE, IS CORRECTABLE UPON AGENCY REVIEW SEE, er WALLACE V. LYON 507 F2d 1186 (D.C. CIR.1974): JONES V. HENDERSON , 495 Fed 559 5th CIR. 1974). JONES V. CARLSON 495, F2d 209 (5th CIR. 1974) .

APTE R TWENTYFIVE MONTHS FROM THE DATE OF PAROLE THE CONNECTICUT AUTHORITY DID OBTAIN CUSTODY OF PETITICNER PERSON.

NOTICE OF ACTION ON DEC. 8 1980 FROM THE PAROLE COMMISSION REOPEN SCH EDULE FOR A NEW HEARING TO CONSIDER NEW INFORMATION IE: STATUTE OF EXTRADITION PROCEEDINGS .

(28 C.F.R. 228 NEW INFORMATION.

INFORMATION

THE BOARD DECISION AT THE FEBRUARY HEARING

paroled to the half WAY.

THE DISTINCTION WITH RESPECT TO CONSTITUTIONAL CLAIM IS THUS THE CONSTITUTIONALITY OF THE AUTHORITY WHICH AN ACT WAS PERFORMED VERSUS THE CONSTITUTIONALITY OF THE BREACH OF AUTHORITY OR ACTION TAKEN OUTSIDE OF THE AUTHORIZED PROCEDURE.

PADDY V. UNITED STATES 430 F. 2d 862 (5th CIR. 1970)

petitioner has been denied due process by both THE GOVERNMENT AND THE STATE BY NOT BEING PRESENT ED IN COURT TO START THE PROCESS OF EXTRIDISTION.

MEMORANDUM OF LAW

A CHINESE PERSON WHO SEEKS TO ENTER THE UNITED STATES BUT IS DENIED A FAIR HEARING AND TURNED OVER TO THE STEAMSHIP COMPANY FOR DEPORTATION AS NOT ENTITLED TO ENTER MAY HAVE A WRIT OF HABEAS CORPUS CHIN YOU V. U.S. CAL. 1908, 28 S. CT 201, 208 U. S. 852 L. ED 369.

THE POWER OF THE FEDERAL COURT TO INTERFERE IN INTERSTATE EXTRADITION PROCEEDINGS SHOULD ONLY BE EXERCISED IN CASES OF URGENCY. WHERE THE ERROR IS PLAIN AND THE NECESSITY FOR FEDERAL INTERVENTION OBVIOUS. IN RE STRAUSS N.Y. 1903, 126 F. 327, 63 C. C. A 99 CERTIFIED QUESTIONS ANSWERED 25 S. CT. 535 197 U.S. 324 49 L. ED 774.

although the courts have power on habeas corpus to review the decision OF THE EXCLUTIVE AUTHOUITY IN EXTRADITION PROCEEDINGS THEYARE CLERLY SATISFIED THAT AN ERROR HAS BEEN COMMITTED. EXPARTE BROWN, D.C.N.Y 1886, 28 f. 653. WHENIT IS ALLEGED IN THE PETITION FOR THE WRIT THAT THE PRISONER IN EXTRADITION PROCEEDING IS RESTRAINED OF HIS LIBERTY CONTRARY TO THE CONSTITUTION AND LAWS OF THE UNITED STATES, THE COURT MAY BY HABEAS CORCUS INQUIRE INTO THE LEGALITY OF HIS ARREST. EX PARTE MORGAN D.C. ART 1883, 20 F. 298.

THE DISTRICT COURT HAS JURISDITION OF PETITION FOR WRIT OF HABEAS CORPUS BY ONE HELD IN EXTRADITION PROCEEDINGS WHERE THERE IS AN ALLEGATION OF VIOLATION OF FUNDAMENTAL RIGHTS GUARANTEED BY THE FEDERAL CONSTITION HARPER V. WALL, D. C. N. J. 1949, 85 f SUPP. 783.

CUYLER V ADAMS NO 78 -1941 A RT. IV SHOULD BE ENTITLED TO WHATEVER SAFE GUARDS OF THE EXTRADITION PROCESS HE MIGHT OTHERWISE HAVE ENJOYED. THOSE SAFEGUARDS INCLUDE THE PROCEDURAL PROTECTIONS OF THE EXTRADITION ACT CIN THOSE STATES THAT HAVE ADOPTED IT AS WELL AS ANY OTHER PROCEDURAL PROTECTIONS THE SENDING STATE GUARANTEES PERSONS BEING EXTRADITED FROM WITHIN ITS BORDERS.

THAT THIS IS WHAT THE DRAFTERS INTENDED IS FURTHER SUGGESTED BY THE DISTINCTION THEY MAKE BETWEEN ART. III AND ART. IV PROCEDURES,

((THE SITUATION CONTEMPLATED BY THIS PORTION OF THE AGREEMENT E ARTICLE IV IS DIFFERENT FROM THAT DEALT WITH IN ARTICLE III . ARTICLE III RELATES TO PROCEEDINGS INITIATED AT THE REQUEST OF THE PRISONER. ACCORDINGLY IN SUCH INSTANCES IT IS FITTING THAT THE PRISONER [redacted] BE REQUIRED TO WAIVE EXTRADITION .IN ARTICLE IV THE PROSECUTOR INITIATES THE PROCEEDING. CONSEQUENTLY IT PROBABLY WOULD BE IMPROPER TO REQUIRE THE PRISONER TO WAIVE THOSE FEATURES OF THE EXTRADITION PROCESS WHICH ARE DESIGNED FOR PROTECTION OF HIS RIGHTS IN AT 79.

NO HEARING WAS OBTAINED TO TRANSFER CUSTODY OF PETITIONER TO THE FEDERAL PENITENTIARY ATLANTA GEORGIA IN THE YEAR OF 1971 AFTER CONVICTION OF A STATE OFFENSE. SEE CONNECTICUT PAPERS ATTACHED HEREIN. NO 15066, NEW HAVEN COUNTY WRITTINS ISSUED JUNE 18, 1971.

NO HEARING WAS OBTAINED TO TRANSFER CUSTODY TO THE STATE OF CONNECTICUT AFTER SERVING OFFEDERAL 3 SENTENCE PAROLED DATE JANUARY 24, 1980.

THEREFORE, BECAUSE OF THE FOREGOING FACTS PETITIONER IS BEING DETAINED AND RESTRAINED OF HIS LIBERTY BY ONE RESPONDENT [redacted] IN VIOLATION OF THE UNITED STATES CONSTITUTION AND THEREFORE HE PRAYS THIS PETITION BE GRANTED. And The detainer Removed with PREJUDICE.

RESPECTFULLY SUBMITTED
John Reid
JOHN REID #C 88
P.O. BOX 1000
MARION, ILLINOIS
62959

SUBSCRIBED AND SWORN TO BEFORE ME THIS 2nd DAY OF June, 1976.

NOTARY PUBLIC

Authorized by the Act of July 7, 1955
to Administer Oaths (19 U. S. C. 4004)
C4-02-81

RECEIVED
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SUPREME COURT, U.S.

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1980

NO. 80-6504

JOHN T. REED,

Petitioner

vs.

CARL AJELLO, ATTORNEY
GENERAL OF CONNECTICUT,

Respondent.

BRIEF IN OPPOSITION TO A PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Linda K. Lager, Esquire
Assistant State's Attorney
235 Church Street
New Haven, CT 06510
(203) 789-7894
Counsel for Respondent.

TABLE OF AUTHORITIES

CASES

Cato v. Smith, 104 F.2d 885 (9th Cir.), cert. denied, 308 U.S. 608 (1939) 5

County of Los Angeles v. Davis, 440 U.S. 625 (1979) 7

Cuyler v. Adams, U.S. , 101 S.Ct. 703, 66 L.Ed.2d 641 (1981) 6

DeFunis v. Odegaard, 416 U.S. 312 (1974) 7

DeLong v. United States, 474 F.2d 719 (5th Cir. 1973) 5

Dixon v. Thompson, 429 U.S. 1080 (1977) 6

Ex parte Abernathy, 320 U.S. 219 (1943) 6

Frisbie v. Collins, 342 U.S. 519 (1952) 4, 5

In re Liberatore, 574 F.2d 78 (2d Cir. 1978) 5

Ker v. Illinois, 119 U.S. 436 (1886) 4

Lawn v. United States, 355 U.S. 339 (1955) 6

Montos v. Smith, 406 F.2d 1243 (5th Cir. 1976) 5

North Carolina v. Rice, 404 U.S. 244 (1971) 7

Ponzi v. Fessenden, 258 U.S. 254 (1922) 5

Singleton v. Wulff, 428 U.S. 106 (1976) 4, 6

Stone v. Powell, 428 U.S. 465 (1976) 4

Strand v. Schmittroth, 251 F.2d 590 (9th Cir.), cert. dismissed, 355 U.S. 886 (1957) 5

United States v. Alaska S.S. Co., 253 U.S. 113 (1920) 7

United States v. Fenno, 167 F.2d 593 (2d Cir.), cert. dismissed, 335 U.S. 806 (1948) 5

United States v. Mauro, 436 U.S. 340 (1979) 6

Yant v. Blackwell, 396 F.2d 808 (5th Cir. 1968), cert. denied, 393 U.S. 1033 (1969) 5

STATUTES

18 U.S.C. App. §2 . . . . . 4, 5

28 U.S.C. §1254 1

28 U.S.C. §2241(a) 1

28 U.S.C. §2254(a) 1

OPINIONS BELOW

The unreported decision and judgment of the United States District Court for the District of Connecticut, dated September 10 and 11, 1980, appears in the Appendix at pages A-1 - A-4.

The United States District Court's grant of petitioner's motion for leave to appeal in forma pauperis, dated October 17, 1980, appears in the Appendix at page A-5.

The United States District Court's order denying a certificate of probable cause, dated December 16, 1980, appears in the Appendix at page A-7.

The United States Court of Appeals for the Second Circuit's denial of a motion for certificate of probable cause, dated February 18, 1981, appears in the Appendix at page A-8.

The opinion of the Connecticut Supreme Court in the direct appeal from petitioner's murder conviction, reported at 174 Conn. 287, 386 A.2d 243 (1978), appears in the Appendix at pages A-9 - A-20

JURISDICTION

It is not clear whether the petitioner is invoking this court's jurisdiction under 28 U.S.C. §1254 to seek review of the United States District Court's denial of this petition for writ of habeas corpus or seeking this court to issue a writ of habeas corpus pursuant to 28 U.S.C. §§2241(a) and 2254(a). In either event, the respondent respectfully submits that the petition should be denied for reasons amplified below.

QUESTIONS PRESENTED

(1) Did the United States District Court correctly conclude that the Connecticut detainer based on petitioner's 1971 murder conviction was valid because the State of Connecticut had personal and subject-matter jurisdiction of the petitioner at the time of his trial?

(2) Has the petitioner's voluntary waiver of extradition to the State of Connecticut on May 2, 1981 rendered moot his claims concerning extradition to the detaining authority?

STATEMENT OF THE CASE

In 1978 the petitioner filed a petition for writ of habeas corpus in the United States District Court for the Northern District of Georgia which was transferred by that court to the District of Connecticut on April 27, 1979 and assigned civil number N79-131. He subsequently filed a petition for a writ of mandamus with the United States District Court for the District of Connecticut on May 11, 1979, assigned civil number N79-130, which was construed as a petition for writ of habeas corpus. Thereafter the United States District Court consolidated the two cases and on September 10, 1980 issued a memorandum of decision denying the petition. Both the District Court and the United States Court of Appeals denied certificates of probable cause to appeal.

The following facts, which shed some light on the status of the petitioner's custody, were before the District Court: On September 3, 1969 the New Haven, Connecticut Police Department arrested the petitioner on state murder charges and he was committed to state jail in New Haven. On September 17, 1969, after the petitioner had been indicted for the crime of murder by a state grand jury, the petitioner was transferred to the Bridgeport, Connecticut Community Correctional Institution. He was at the Bridgeport Community Correctional Institution until April 12, 1970, when he escaped. During this period of time, petitioner was in state custody.

While he was in state custody, he was brought to trial on federal bank robbery charges, for which he had been arrested on July 27, 1969. The trial was held in the United States District Court for the District of Connecticut in New Haven from January 13, 1970 through January 21, 1970 and petitioner's presence was apparently obtained by the federal authorities through a writ of habeas corpus ad prosequendum. After the guilty verdict, a presentence investigation was ordered and petitioner was returned to state custody. The petitioner was sentenced in the bank robbery case on October 2, 1970. It is apparent that some of the delay between verdict and sentence

can be attributed to petitioner's escape from the Bridgeport Community Correctional Institution on April 12, 1970.

The petitioner was at large from the day of his escape until July 16, 1970 when he was arrested by the United States Marshal in Newark, New Jersey on another pending Connecticut bank robbery charge, which was different from the one that had already been tried in federal court. On July 16, 1970, petitioner was committed to federal custody by a federal magistrate, in lieu of bond. On August 18, 1970, petitioner was transferred to the federal correctional institution at Danbury, Connecticut as a United States Marshal's "hold-over" prisoner. A prisoner on "hold-over" status can be transferred to another federal institution and can also be turned over to state authorities for prosecution. Federal records indicate that as of August 18, 1970, petitioner had been convicted of one federal robbery charge and had a second federal bank robbery charge and a state murder charge pending.

On March 8, 1971, petitioner was transferred to the Connecticut Correctional Institution at Somers from the federal correction institution at Danbury. Petitioner was tried on the state murder charge in May, 1971 and was sentenced to life imprisonment on June 18, 1971. He filed his appeal to the Connecticut Supreme Court on July 1, 1971. His conviction was affirmed by the Connecticut Supreme Court on February 28, 1978. The State of Connecticut lodged its detainer mittimus against the petitioner on March 31, 1978.

After his sentencing in the Connecticut Superior Court the petitioner was transferred to federal custody and from June 26, 1971 until May, 1980 he was serving the sentence imposed by the federal court on October 2, 1970 at the United States Penitentiary in Georgia. In May, 1980 he was transferred to Marion, Illinois. (App. pp. A21 - A22). After a hearing he was granted parole to the actual physical custody of detaining authorities only, effective May 2, 1981. (App. p. A-23). On May 1, 1981, the petitioner waived extradition to the State of Connecticut and he was released to the Connecticut authorities on May 2, 1981. (App. pp. A25 - A26). He is presently incarcerated at the Connecticut Correctional Institution, Somers, serving his life sentence on the state murder conviction.

REASONS FOR DENYING THE WRIT

The sole issue decided by the United States District Court is whether the State of Connecticut had personal jurisdiction over the petitioner to validate his state conviction and the detainer lodged against him. The District Court's decision is premised upon and fully supported by a long line of cases decided by this Court. E.g., Stone v. Powell, 428 U.S. 465, 485 (1976); Frisbie v. Collins, 342 U.S. 519, 522 (1952); Ker v. Illinois, 119 U.S. 436 (1886). Since the petitioner failed to pursue and the district court did not decide any claims concerning an extradition hearing prior to transfer from federal custody to the custody of the State of Connecticut, this court should refrain from addressing the issue. Singleton v. Wulff, 428 U.S. 106 (1976). Moreover, the petitioner's voluntary waiver of extradition has rendered moot any challenges of the extradition process he may wish to make.

I. THE DISTRICT COURT DID NOT DECIDE THE FEDERAL QUESTION IN THIS CASE IN A WAY IN CONFLICT WITH APPLICABLE DECISIONS OF THIS COURT NOR IS THE QUESTION ONE WHICH IS UNSETTLED

The specific claim made by the petitioner in the district court was that since he was not transferred to state custody in 1971 pursuant to a written request for temporary custody under the Interstate Agreement on Detainers, 18 U.S.C. App. §2 Art. IV(a) or by writ of habeas corpus ad prosequendum, the State of Connecticut lacked jurisdiction over his person, voiding his murder conviction and the state detainer based on it. Previously in the state courts, the petitioner had attacked the state's jurisdiction on the ground that he could not be tried on state charges until his federal appeal was concluded. (App. p. A-11).

After his escape from state custody in April, 1970, the petition was returned to the State of Connecticut and was physically present in the state, albeit in federal custody, from August 18, 1970 until March 8, 1971 when he was transferred to the Connecticut Correctional Institution at Somers. He was tried on the state murder charge in May, 1971. Even assuming that the transfer from the federal correctional institution at Danbury, Connecticut to the state correctional institution at Somers, Connecticut was illegal,

the constitution does not require that the accused's presence in court be obtained lawfully. Frisbie v. Collins, 342 U.S. at 522.

The Connecticut Superior Court had jurisdiction to try petitioner. It had subject matter jurisdiction over the offense. The petitioner was lawfully arrested in Connecticut and presented before the state court on a state indictment. Until the date of his escape from the Bridgeport Community Correctional Institution, the petitioner was in state custody on the pending state charge. Petitioner's escape, which deprived the State of Connecticut of physical custody of petitioner, did not deprive the state of jurisdiction. Once the petitioner was returned to state custody by the federal authorities, he could be tried, convicted, sentenced, and imprisoned. Yant v. Blackwell, 396 F.2d 808 (5th Cir. 1968) cert. denied, 393 U.S. 1033 (1969); United States v. Fenno, 167 F.2d 593, 595 (2d Cir.) cert. dismissed, 335 U.S. 806 (1948); Cato v. Smith, 104 F.2d 885, 886 (9th Cir.) cert. denied, 308 U.S. 608 (1939). Moreover, the federal authorities could have merely "loaned" petitioner to the State of Connecticut for trial on the pending charges, see In re Liberatore, 574 F.2d 78, 89 (2d Cir. 1978); and such temporary transfer would be sufficient to give the court jurisdiction over petitioner's person.

All the courts that have considered the issue correctly rejected the petitioner's claim that the state court lacked jurisdiction. As a matter of comity, one sovereign may surrender custody or temporarily waive its right to exclusive jurisdiction of a person by delivering him to another sovereign for trial. Montos v. Smith, 406 F.2d 1243, 1245 (5th Cir. 1976); Strand v. Schmittroth, 251 F.2d 590, 597 (9th Cir), cert. dismissed, 355 U.S. 886 (1957). The petitioner had no standing to object to one sovereign's waiver of custody. Ponzi v. Fessenden, 258 U.S. 254, 260 (1922). Since the petitioner was physically present in the State of Connecticut, none of his rights were violated by the federal authorities' willingness to deliver him to the state authorities without requiring issuance of a writ habeas corpus ad prosequendum. DeLong v. United States, 474 F.2d 719 (5th Cir. 1973).

Moreover, the Interstate Agreement on Detainers, 18 U.S.C. App., 84 Stat. 1394-1403 (1970), is inapplicable in this case. Initially, the United States did not become a party to that agreement until March 9, 1971,

the day after the petitioner was transferred to the Connecticut Correctional Institution. Thus, the State of Connecticut could not have proceeded under the provisions of the agreement. Additionally, since no detainer was filed by the State of Connecticut, the provisions and protections of the agreement were not activated. United States v. Mauro, 436 U.S. 340, 343 (1979). Finally, any protections which the agreement would have accorded the petitioner were provided de facto. The two limitations placed on the prosecuting authority by Art. IV(c) and (e) were satisfied. The petitioner was tried on the outstanding state charges within 120 days of his "arrival," i.e., his transfer to the state institution. Id. at 352.

Thus, since that the power to try a criminal defendant is not lost even if he is brought within a jurisdiction illegally and the circumstances involving the petitioner's transfer to Connecticut custody were reasonable, the petitioner has not presented an unsettled federal question. The district court correctly applied controlling decisions of this Court in concluding that the petitioner's 1971 murder conviction and the detainer based on it were valid.

II. THE ISSUES THE PETITIONER SEEKS TO RAISE CONCERNING HIS EXTRADITION ARE MOOT

The petitioner appears to be challenging any transfer to the State of Connecticut on the alternative ground that he was denied an extradition hearing in the State of Georgia. See Cuyler v. Adams, U.S. , 101 S.Ct. 703, 66 L.Ed. 2d 641 (1981). This Court should not decide what relief, if any, is warranted for this alleged impropriety because the petitioner failed to pursue this issue before the district court, did not introduce any evidence to support the claim, and the district court did not decide it. This court's policy has been to refrain from deciding unaddressed issues unless the proper resolution is beyond doubt or an injustice might otherwise result. Singleton v. Wulff, 428 U.S. at 121; Lawn v. United States, 355 U.S. 339, 362-63, n.16 (1955). The petitioner's case is not the exceptional one justifying the exercise of this court's discretionary power to issue writs of habeas corpus in aid of its appellate jurisdiction. E.g., Dixon v. Thompson, 429 U.S. 1080 (1977); Ex parte Abernathy, 320 U.S. 219 (1943)

Moreover, the petitioner's voluntary waiver of extradition on May 2, 1981 has cured any alleged deficiencies associated with the earlier extradition attempt in Georgia. After the petitioner was transferred from Georgia to Illinois the federal authorities gave him a new parole date and he would have been accorded an extradition hearing, if he desired one. (App. pp. A-21 - A-22). Instead, he chose to waive extradition and is currently at the Connecticut Correctional Institution serving his state sentence.

"Where by an act of the parties . . . the existing controversy has come to an end, the case becomes moot and should be treated accordingly." United States v. Alaska S.S. Co., 253 U.S. 113, 115 (1920). This court's decision on the extradition issue cannot affect the petitioner's rights or status. See DeFunis v. Odegaard, 416 U.S. 312 (1974); North Carolina v. Rice, 404 U.S. 244, 246 (1971). There can be no reasonable expectation that the alleged violation will recur and the petitioner's voluntary waiver has eradicated the effects of the alleged violation. County of Los Angeles v. Davis, 440 U.S. 625 (1979). Accordingly, this court should decline jurisdiction on the ground of mootness.

CONCLUSION

For the reasons stated above, it is respectfully submitted that the petition for writ of certiorari should be denied.

Respectfully submitted,

Linda K. Lager
Assistant State's Attorney
Counsel for Respondent, Carl Ajello

CERTIFICATION

This is to certify that a copy of this brief in opposition to petition for writ of certiorari and attached appendix were mailed to John T. Reed, pro se, Box 100, Somers, Connecticut 06071, this 2nd day of July, 1981.

Linda K. Lager
Assistant State's Attorney
235 Church Street, Room 216
New Haven, CT 06510
Telephone #789-7894

80-6504

Supreme Court Of The United States
Writ Of Certiorari
From The United States
Court Of Appeals
From The Second Circuit

SL 10 PAGE 32

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John Timothy Reed — No
V
Carl A. Jello Attorney Genetal No- 806304
Of Connecticut. Jack Hanbeury
Warden United States Penitentiary

REPLY
Traverse To The Return

REPLY BRIEF.

No. 80-6504
John T. Reed
105- 240
P.O. Box 100
Connecticut Correctional Institution
Somers, Connecticut. 06071

(1)

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The People Of The State Of Illinois V, John Timothy Reed, Section 54-166 1957 P.A. 362, S. Title 18, Section 662 USC. Day V. Keim C.C.A.W.VA 1924, F2d.966. Peyton V. Rowe Va 1968/88 S.CT 1549-391- U.S 54 20 L.E.D. 426. Cal People V Houston 74 P2d. 517, 24, CA. 2d 170.

(EXHIBIT)

(1) Prisoner remand or order to deliver Warden Federal Correctional Institution, Danbury Conn. August 18, 1970. Charge BANK ROBBERY Title 18, U.S.C. Section 2113(A) (B) and (D) and title 18, U.S.C. Section 2 (A) and (B) No.MG. 6-70-166

(2) (A) Judgement and Commitment No-12,577 It is adjudged that the defendant whether he has anything to say why judgement should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the court.
(B) It is adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorised representative for imprisonment for a period of Nineteen (19) years on count one, the 2ND and third were dismissed.

(3) Civil NO 13377 Application for Writ of habeas corpus adeese quendum, issued for indicement. 12, 577 Bank Robbery Register NO-19 95026-131 Parole to approved plan.
(4) State Of Connecticut Vs, John T, Reed 1Pe 15-866 Office of the deputy Court administration and clerk of New Haven. No wait of habeas corpus Adprose Jurisdiction file in Superior Court in and for New Haven County.

(5) NO. 15366, State of Connecticut Vs. John Reed A.K.A. John Reid New Haven County Mittimus issued June 18, 1971, Arredted September 2nd, 1969.

(6) Judgement Superiour Court New Haven County sworn by Arnold Markle, Esquire, Attorney for the Stee Of Connecticut within and for said County on August 31, 1969 Charging John Reed, also known as John Reid with the crime of murder 1st degree, N)- 15866, State Of Connecticut Vs John Reed, also known as Reid.
(7)
(7)(Judgement) February 1978, Civil action NO- C-77-444-A
(8) Petition for writ of habeas corpus filed in Atlanta Georgia Federal Court. Because being a Federal Prisoner in the Federal Penitentiary at Atlanta Georgia. Civil- 79-130.
(9) Petition for reconsider Civil 79-131
(10) Letter dated January 19, 1981, Ellen Brew. Bureau.

(11) Letter dated January 19, 1981, Pro-se Law Clerks Olga Valentine

(12) Letter dated Februaru 20, 1981 Pro-Se Law Clerks Olga Valentine

(13) Letter dated June 3, 1981, Attorney William F. Dow, III

(14) Letter dated June 18, 1981, Attorney William F. Dow, III

(15) Letter dated March 13, 1981, Attorney Ira B. Grudberg.

(16) Connecticut Correctional Institution Inmate request to staff members dated May 13, 1981, Inmate Account, Batty.

(17) U.S Department of Justice United States Parole Commission. Dated June 8, 1981. Response to Privacy Act, Request(s) received 5/14/81. 5/22/81.

(18) United States Government Memorandom. May 19, 1981 Judith K. Lasley-Para-legal U.S. Parole commission, Kansas City, Mo. Privacy act request received May 14, 1981.

(19) United States Patole Commission Washington D.C. 20537, December 9, 1980 Rehearing.

(20) Notice of action Dated December 8, 1980, December 4, 1980. North Central 28:11:2:28. New Information

(21) Notice of action Dated ,arch 11, 1981 North Central condition on remarks.

(22) Notice of actions dated December 12, 1981 Parole to an approved plan Gentlemens Workshop.

(23) Inmate request to staff menbers Dated January 9, 1978 County jail time requested.

(24) State of Connecticut Department of corrections, Dated December 1, 1976 Request for time on sentence computation sheet.

(25) Leroy N. Stynchombe, Sheriff, Fulton County, Atlanta Georgia. 30303 dated April 8, 1976 (Detainer)

(26) State of Connecticut, Department of Correction, Connecticut Correctional Institution, Somers, Connecticut, Post Office Box 100, 06071.
Letter dated August 28, 1973: Re: Sentencing Statute

(27) State of Connecticut, Department of Correction, 340 Capitol Ave, Hartford Connecticut. 06115. Letter dated September 5, 1973. Re: Sentencing Statites.

(28) Marie Baslem. Clerk of Circuit Court of Illinois First Judicial District Williamson County, Marion Illionois. 62959, May 29, 1981; Latter dated May 29, 1981: Re: Transcript pf proceeding #81-MR-36

(29) Warrant of arrest: No- 81-MR-36. Dated May 1st, 1981.

(30) United Staes Department of Justice, Federal Bureau of Investigation Washington, D.C. 20537/

(31) The F.B.I. Record sheet.

US Department of Justice.
United States Parole Commission
Dated July 1, 1981

Supreme Court Of The United States
Writ Of Certiorari
From The United States Court Of Appeals
For The Second Circuit.

John Timothy Reed

V

Carl AJello Attorney General NO- 80-6504
Of Connecticut
Jack Hanberry: Warden United States Penitentiary

Traverse to the return come the Petitioner John Timothy Reed and for his traverse to respondents answer and return States.

Petitioner is presently detained, imprisoned and restrained in his liberty by the Warden of the Correctional Institution at Somers Connecticut pursuant to a conviction of murder in the second degree. And a subsequent sentence for violation Sec. 53-11. Sentence was imposed June 18, 1971. Defendant was arrested September 2, 1969 for the crime of murder in the first degree. Sec-53-10.

John Timothy Reed

V

State Of Connecticut.

Appeals affirmed (1978) 386, 386-A. Attorneys motion for rehearing not ruled on by the State Supreme Court Of Connecticut.
Petitioner Pro Se motion for rehearing denied without opinion: Petitioner was committed to the Connecticut Correctional Institution, Somers On June 18, 1971, pursuant to an order of the court. Petitioner was incarcerated in the Connecticut Correctional Institution, and thus undske custody of the State of Connecticut for a period of 40 days after his conviction, at which time he was placed in the custody of Federal Authorities.
Subsequent to the aforementioned conviction, the petitioner person was taken from the custody of the United States authorities to the custody of the authorities for the State of Connecticut to stand trial on State charges.
The aforementioned change of custody was not made pursuant to the filling of a detainer under the provisions of the Interstate agreement on detainers or pursuant to the issuance of a writ of Habeas Corpus ad prosequendum.
The State of Connecticut lodged a detainer against petitioner seeking his immediate return to Connecticut authorities upon his release from Federal incarceration for the purpose of continuing to serve his state sentence.
The aforementioned detainer has not been issued by or pursuant to a legal conviction because it was not issued by a Court which had obtained jurisdiction over the petitioner, due to the failure of the Connecticut authorities to gain control over petitioner's body through the use of a detainer as pro-

vided for by the Interstate agreement on detainers or through the use of a WRIT Habeas Corpus ad prosequendum.

No orders to transfers to other Correctional Institution were filed by the State Correctional Institution Somers, Connecticut, to the Federal Penitentary-Atlanta Georgia, July 28, 1971. Sec, 54-134. Designation of compact Institution. Sec, 54-135 Transfers to other Correctional Institutions.

Sec. 54-136 Incarceration in receiving State not to arrest rights in sending State. Sec. 54-140 Termination of jurisdiction on expiration of allotted period.

Clerk to notify Warden of State Prison sentence "the clerk of any Court which had sentenced any person to the State Prison shall forthwith give notice thereof to the Warden by mail (1949 Rev.S. 8808O)

Habeas Corpus challenges not only fact of confinement but also place of confinement: Lake V. Cameron, 1966, 364, F2d, 657, 1 24 U.S. App D.C. 264-Certiohari denied, 86 S.C.T. 126, 382 U.S. 863, 15 L.E.D. ED. 100.

After writ of Habeas Corpus issued custody of, person restrained of liberty may not be changed.

Wilson V. Rodgers. D.D. 1967, 274 F-Supp 39

The Federal sentence was obtained first and the court did not comply with the Federal Writ of Habeas Corpus ad prosequendum Civil No- 13377 or did they obtain new Writ after being sentenced in Federal Court on October 2, 1970.

The term (Habeas Corpus) is a Genekic one, Embracing both Habeas Corpus Ad-subjiciendum, to enquire into cause of restraint, and Habeas Corpus ad prosequendum to bring prisoner to trial: Morgan V. U.S . C.A. Cal. 1967, 380, Fed 686, Cantiorari denied. 88 S.C.T. 1064, 390 U.S. 962 19; 1 Ed. 1160 rehearing denied. 88 S.C.T. 1249, 390 U.S. 1008 20 I Ed 2d.100.

Writ of Habeas Corpus is procedual device for subjecting exclusive judicial restrains on liberty to Judicial Seruting, Payton V. Rowe VA 1968, 88., SCT 1349 391 U.S. 54, 20, L.Ed.426.

The Federal Court had to lodge the sentence detainer of 19 years, at the record office Somers Connecticut Institution after October 2, 1970, Along with petitioner person to show how a Federal sentence has to be served. When a person is arrested by both State and Federal Sovergin on unrelated charges.

The Federal remand order just held the Government Custody.

The remand order is to deliver and dated August 18, 1970, and its for a Federal charge not a State charge. A letter dated November 5, 1973 (States-) In reply to your letter of November 1, please be advised that we do not have a copy of the Habeas Corpus mentioned therein on our file)Leonard J. Gilhuly-assistant Clerk) Re 15866, State Vs. John T. Reed. The docket entry shows no writ of Habeas Corpus ad prosequebdum on file.

In State Vs. John T. Reed, Marked as Exhibit (A) and attached hereto-

The Federal sentence is a valid sentence and final judgement was rendered after the second Circuit Court of Appeals affirmed petitioners appeal from the judgement rendered at the district court of New Haven, Connecticut.

Rule 35 cannot be used to extend judicial authority over a sentence beyond the 120 day period where the sentence is legally imposed. See 18, U.S.C.

2113-A Kortness V. United States, 514 F2d. 167 (8cir-1975)
The United States Constitution, like all Constitutions is written in broad, general language. The Constitutions do not purport to cover all the situations but they leave to the courts and to the legislatores the business of interpretation. Each State also has its own Constitution which may offer some protection to prisoners. Inaddition to providing a record for appellate review. A pretrial hearing enables a defendant to advance the basis of his objection or eliminate the risks of prejudice to the accused.
And thense to January 11, 1971 when the defendant filed a substituted plea to jurisdiction, and thense to January 14, 1971 when the States Attorney filed an answer to said substituted plea to jurisdiction, and thence to January 22, 1971 when the court (O'Sullivan, J)denied the said substituted plea to jurisdiction and thence to April 23, 1971 when the Court (MacDonald, J) denied the motion of the defendant filed November 17, 1970 to obtain transcripts, 81-MR-36 The State of Connecticut Vs. John Reed also known as Reid No-15866.
The State Supreme Court Of Connecticut affirmed and the plea to the jurisdiction was affirmed: Attorney Victor Fasano's motion for rehearing was not ruled on by the Court, but petitioner filed a motion for rehearing and was denied without opinion.
The Court Erred by not ruling on Attorney Victor Fasano motion for rehearing. Practice Book 3097 (C) (4) Provides "No motion for extension of time" under this rule shall be granted unless it is filed before the time for filing the appeal or subsequent paper has expired (Emphasis added)
Practice Book 3109 provides relevant, If a party shall fail to defebd against an appeal with proper diligence the Supreme Court may, on motion by any other party to the appeal or on its own motion, set aside in wholes or in part the judgement under attack with costs, and direct the entry of an appropriate final judgement by the trial Court against the party guilty of the failure. State V. McCarthy, 178 Conn. 1,3,425 2d. 924 (1979) Also see State Of Connecticut V. John Files, Ju, argued April 7, decision released April 21, 1981. April term (1981). Further an inordinate and unjustified delay in the State Corrective process may well result in the frustration of petitioner's rights and be such a circumstances as to render that process ineffective, Dixon V. Florida Ca3, 1/3/68.
While Comity imposes upon Federal Court requirement that applicants for Habeas Corpus first utilize orderly procedure of State Courts, such requirements is not imposed where it appears that prodecural rules have effect of rendering applicants without State remedy in actual practicalty and petition will not be summarily disposed of merely because State Attorney General maintains that there has has been failure to exhaust state remedies. Lovan V. Wingo D.C. KY 1970, 315. F. Supp, 656: Judgement may be reversed where the public Prosecuting Officer or Attorney General admits or confesses error.
Cal. -People V. Houston, 74 P. 2d 517, 24, C.A. 2d 170. The Sentencing Transcript in the State Of Connecticut V. John Reed, the defendant objected to long delays. No - 15, 866 June 18, 1971.

"where the legislatore has chosen specific means to effecuate a Fundamental right failure to follow the mandatory provisions of the Statute is plain error Reviewable by this court. State Of Connecticut V. George C. Carter- December. Tenn. 1980 Vol-XIII No-27

The Grand Jurors indictment was based on testimony that did not reach the requirement of the Statute: See 54-83. Testimony required in Capitol Cases: No person shall be convicted of any crime punishable by death without the testimony of at least two witnesses, or that which is equivalent there to. 1949- (Rev, s. 8799)

The statement made by Co-defendant Arthur Nurgo, Ralph Maselli and Thomas Viola were given on the night of murder. They were taken but no arrest was made. On April 22, 1971 when the Court (MacDonald. J) denied the motion of the defendant filed on November 12, 1969 for pretrial interview with perspective prosecution witnesses, this motion was not ruled on.

At trial on May 13, 1971 when the Court (Donnehy, J) denied the oral motion of the defendaant filed on said date to dismiss and for mistrial, and thence to May 27, 1971 when the Court (Donnehy, J) denied the motion of the defendant to dismiss, No- 15866 State Of Connecticut Vs. John Reed, also known as Reid 81-MR-36.

Judge Ellen Bree Burns erred in her decision dated 9th day of September, 1980. Civil No - N-79-130, Civil No- N-79-131. They rest on the sound basis that due process of law is satisfied when one present in Court is convicted of crime after having been fairly apprised (of) of the charges against him and after a fair trial in accordance with Constitutional Procedural safeguards; In Frisbie V. Collins. Supra at 522.

The first statements were changed after Thomas Viola's arrest as a fugitive from Justice one year after given his first statement.

The statements were objected to and motion for mistrial were denied and motion to Dismiss indictment were filed and denied and appeal taken and denied. This is Plain Error.

The fact that evidence other than that which was improperly admitted is sufficient to justify a conviction does not make the admission of the evidence harmless, since it cannot be said what weight the Jury gave to the evidence in reaching their verdict: U.S. Payne V. State of Arkansas, Ark, 78, SCT. 844, 356, U.S. 560 2 Lo. Ed, 975.

The reviewing court will reverse a conviction where it cannot say from the record that the evidence erroneously admitted was not prejudicial to accused: Ill. People V. Page. 6 N.E. 2d 845, 365, Ill 524.

The High Court in ruling stated: Last week the Justices were asked to rule that at least some CONSTITUTIONAL ERROR SUCH AS THE USE OF UNCONSTITUTIONALLY OBTAINED

(Statements)
Miller V. California
No- 134

Rulings on evidence made during preliminary hearing on admissibility of Confessions in Prosecution for murder in first degree would be reviewed by Supreme Court of Errors: State V. Buteau (1949) 68 A 2d. 681; 136, Conn. 113- certiorari denied 20 S.C.T 516; 339 U.S. 903, 94 L.E.D. 1332.

Governments claim that statements admission of which defendant challenged in motion for poste- viction relief, were not incriminating but Exculpatory would not justify denial of hearing where they had been offered by state at trial as incriminating: Tucker V. U.S. C.A. D.C. 1980, 427, F2d 615.
The Court made it clear that there are some Constitutional rights. So Basic to arfair trial that their infraction can never be treated as harmless error.
"Like the use on inadmissable confessions inctiminating statements secured can never be deemed insignificant and unimportant as to be no more than harmless error. A Jurisdictional claim could be approached in a Capitol offence or permissibly prosecuted without custody: Smith V. United States, 360 U.S. 1, 10- (1959)
It is essential to a valid sentence that the court pronouncing it be anexisting one, lawfully in session at the time of rediction, with jurisdiction over the person and the offense changed and having power to pronounce the sentence and , jurisdiction of a case generally ends at the explaration of the term at which judgement is entered lawfully Constituted GA. Wells V. Newton- 28 S.E. 640 101 G.A. 141.
With Jurisdiction over the person an the crime which he is charged - U.S. Bauman V. U.S. C.C.A. La 156 F2d 534, and having power to pronounce the particular judgement or sentence, CAL. EXPARTE Bouchard.
176-P. 693, 38 C.A. 784 and EX Parte-Jacobson 176 P. 69 3,38 C.A. 784-
States and grants of immunity were given without authority to Co-Defendants- Ralph Masalli, Arthur Murgo, and Thomas Viola. Objections were made and denied with exception and appeal taken and affirmed, but Attorney Victor Fasano's motion for Re hearing was not ruled upon. This is plain error.
The purpose of priviledges and immunitiess clauses of both State Constitution and Fourteenth amendment to United Staes Constitution is to secure equality of treatment to all persons without undue favor on the one hand or discrimination on the other: State V. Nixon, 10. Wash App 355, 517, P2d. 212.
Upon principle, every state which takes away or impains vested rights acquired under existing law, or creates a new obligation imposes a new duty, or attaches a new disability, in respect to transactions or considerations already past, must be deemed retrospective:
Immunity from prosecution in another jurisdiction the constitutional privilege against self-Incrimination protects a State Witness against incrimination under Federal as well as State law, and a Federal witness against incrimination under State as well as Federal Law:
Accordening to the United Stàes Supreme Court, Overruling or disapproving various earlier holdings or dicta to the contrary has established that in

order for a State grant of immunity to be constitutionally adequate, the immunity to Federal criminal proceeding and to criminal proceedings by other States also, the Supreme Court has expressed the opinion that the fifth Amendment does not permit the Federal Government to compel a witness to testify under a grant of immunity unless the immunity affords protection extending to State criminal proceedings.

While comity imposes upon Federal Court requirement that applicants for Habeas Corpus first utilize orderly procedure of State Courts, such requirement is not imposed where it appears that State procedural rules have effect of rendering applicants without State remedy in actual disposed of merely because State Attorney General maintains that there has been failure to exhaust State remedies. Lovar V. Wingo, D.D. KY. 1970, 315. F-Supp 656.

Habeas Corpus was appropriate remedy for person imprisoned under State Court conviction procured by a confession held by State reviewing Court to have been coherced and conceded by State to have been obtained in violation of U.S. C.A. Const, Amedn 14. F.A.Y. V. Noia N.Y. 1963, 83 Sct. 822, 332, U.S. 391, (L, 2d 837.

"Petition or Indicment" murder in the first degree, second degree, Manslaughter penaltys Death or life in prisonment for first degree, second degree, life, manslaughter 15 years.

Under Indicment for murder accused cannot be found guilty of any crime except murder in first or second degree or manslaughter B2C41.

Petitioner was given life imprisonment for second degree murder: This is Error when the first degree and manslaughter were dismissed by conviction of second degree Murder. Life is for first degree and death shall be in the discretion of the court or jury, but life is still life for first as it is for second. This is plain error and reviewable by appeal or correction. The case was on direct ~~direct~~ appeal and the State Supreme Court erred by not remanding the case back to Superiour Court at New Haven, Connecticut- For a proper Judgment

Further, an inordinate and unjustified delay in State Corrective process may well result in the frustration of petitioners rights and be such a circumstances as to render that process ineffective. DIXON V. FLORIDA, CA_5, 1/3/68.

Citing a stautory provision that sentencing in first degree murder cases is the sole province of the Jury, Justice Francis, dissenting, argues that the majority exceeds its authority in reducing the sentence he suggest that a separate trial on the issue of sentencing could be corrected or alternatively, A New Trial Held. (Mcloonell V. U.S. 4/19/68/ Page 2131-

At Sentencing Judge (Dannehy J.) states (That he did not have a CONSECUTIVE Sentence in mind) No objection was made by the State or did they appeal the Judge's intent to a CONCURRENT Sentence: Polko although indicted for first degree murder has been convicted of murder in the second degree after a Jury trial in a Connecticut State Court:"THE STATE APPEALED AND WON A NEW TRIAL." (ie State V. Polko 2 D.M Supp 471-1-68

The difficulty with the States position is that neither the State nor the appellant challenged the validity of the first sentencing and that since the sentence was with in the limits of the penalty provided by law it did not exceed the trial courts jurisdiction. The first sentence was the two R Robbery 14 years.

[redacted]

Also see Sec 51 - 202 Connecticut Statute (Court Docket)
See Sec 51 - 203 Assignment: See Sec 54 - 95 Appeals: Appeals criminal prosecution 10 days after judgement is rendered: See Sec 54 -1c Admissibility of Confession:
Any admission confession or statement written or oral statement obtained from an accused person who has not been so presented to the first session of the court on the day specified in subdivision (1) (2) or (3) of section 54 - 15 or who has not been informed of his rights or provided by section 54 - 16 shall be inadmissible (1963, PA. 126, S.3, Pedenary - 1965, PA. 436, S. 2.
See Sec 54 - 43 A
See Sec 54 - 83
See Sec 54 - 43
Our recent cases have thoroughly rejected the Palko motion that basic Constitutional right can be denied by the States as long as the totality of the circumstances does not disclose a denial of fundamental fairness once it is decided that a particular Bill of Rights guarantee is Fundamental to the American Scheme of Justice.
Deneau V. Louisi: Ana, Supra, AT - 149: The Same Constitutional standards Ana, Against both the State and Federal Governments Palko's Roots had thus been cut away years ago: We today only recognize the inevitable.
October Term, 1968
393. U.S. No - 201

Citing a steutory provision that sentencing in first degree murder cases is the sole province of the Jury: Justice Francis, dissenting argues that the majority exceeds its authority in reducing the sentence: He suggest that a seperate trial on the issue of sentencing could be convened or alternatively a new trial held.

McConnell V. U.S.
4/19/68: Page 2131

On January 24th petitioner was denied the right to be confronted in Court of Law to start the process of extridition after being paroled: Letters and three parole slips make this statement a fact. also Parole Tapes.
No Court action was started at the Feldon County Court House at Atlanta Georgia or is there a recorded record of the petitioner being present at the Court the day of January 24, 1979 or any day after the 24th day of January 1979.
The Federal Court in Atlanta Georgia is where petitioner filed a petition for Habeas Corpus: Relief under the all WRITS Acts. Restraining order filed.
Being a Federal prisoner awaiting return to the State Of Connecticut to serve a life sentence: B.P. - 9 & 10- were filed and letters sent to Connecticut after service of eight years and four months of a 19 year Federal sentence.
Petitioner objected to the process of extridition being started after 27 months from time of being granted parole (this is plain error)
Objection was made in court and petitioners federal sentence is still in sequence.

Circuit Court Of Illinois
First Judicial District
Williamson County
Marion, Illinois. # 81 - MR - 36.

objected made

This transcript shows the court how the Petitioner and Judge objected as recorded in said hearing.

This testimony recorded at Williamson County, Illinois is part of information obtained from the record office at the Federal Penitentary: In Part the record states: As recorded in testimony: As some background to this situation, Parole had been previously granted to your detainer effective January 24, 1979 while this prisoner was in the U.S. Penitentary, Atlanta, Georgia paroles to detainers are routively afforded. Extridition hearings in the local Court jurisdiction were a prisoner is currently being held. At this hearing Mr Reed refused to waive extridition to your detainer, which cancelled his parole and he was returned to the Institution in Atlanta to continue serving his Federal sentence with your detainer still in effect: Letter attached hereto Case No-81-MR - 36.

The People of the State Of Illinois
V.S
John Timothy Reed

Sec 34 -467. Penalty for failure of officer to bring accused in Court any-officer who delivers to the agent for extridition of the demanding State: A person in his custody under the governnors Warrant, in wilful disobedience to section 34 - 166, shall be fined not more than one Thousand Dollars or be imprisoned not more than 6 months or both(1957 P.A. 362, S #)

Title 18, Section 662 U.S.C.

A Prisoner Held Contrary to the provision of that section is detained in violation of constitution and laws of the United States and could envoke the jurisdiction of a Federal Court by writ of Habeas Corpus to enquire into the leagality of his detention.(DAY V. Keim. C.C. A.W.VA. 1924, F2d 966)

DAY

(CONCLUSION)

The grant of immunity for the Co-Defendants was not a legal grant of immunity. They were arrested in Three sovergin and not given the authority to give truthful statements (THIS IS PLAIN ERROR)

The arrest of the defendant John Reed was made one year after the murder of the deceased Richard Biondi.

The first statement given to police the night the co-defendant were questioned were different after arrest of co-defendant Thomas Viola arrest, as a fugative from justice: He was returned to the State of Connecticut to stand trial with the defendant John Reed: The grant of immunity was obtained first for Ralph Maselli and Arthur Murgo. Immunity was granted for Thomas Viola in another sovergin but his grand jury transcript is not part of a recorded record. The State claim in Connecticut that the State of New Jersey gave no grants of immunity, and the state of Connecticut gave no immunity grants are part of a record of immunity arranged for codefendant or coconspitories to be witnesses in both State and Federal traials.

This is plain error and against the principals of the Immunity Statutes the State of Connecticut and the Federal Government did not grant the co_ conspitoriesor co_ defendants authorised immunity in a Federal or State Sovergin. And this is plain error. The trial and records show objection and exception and appeals taken and denied by the State Court, but Attorney Victor Fasano motion for rehearing was not ruled on by the State Supreme Court of Connecticut: This also is plain error. No opinion was given on petitioner Pro-Se petition for rehearing. No - 15, 866 State of Connecticut V. John Reed and this also is plain error.

Petitioner Federal Sentence was obtained first and the Court did not comply with the Federal Writ of Habeas Corpus Adprosequendum Civil No 13377 or did they obtain new writs after being sentenced in a Federal Court on October 2, 1970.

The Superior Court at New Haven County has the process of issuing said writs (Palmer J.) granted the motion to Quash writ of Habeas Corpus adtestificandum of Ralph Masello and Arthur Murgo with leave to renew No - 15866 State Of - Connecticut Vs. John Reed also known as reid.

Writ of Habeas Corpus is procedural device for subjecting executive judicial or private restraints on liberty to judicial scruting (Peyton V. Rowe Va, 1968, 88, S.C.T. 1549 391. U.S 54, 20 L.E.D. 426.

Judgement maybe reversed where the public prosecuting officer or Attorney General admits or confesses error.

CAL People V. Houston
74 P 2d, 517, 24, CA 2d, 170.

In Respondent brief the respondent states on July 16, 1970, petitioner was committed to Federal custody by a Federal magistrate, in lieu of bond. On August 18, 1970, Petitioner was transferred to the Federal Institution at Danbury Connecticut as a United States Marshals "Hold Over" status can be transferred to another Federal Institution and can also be turned over to State authorities for prosecution. Federal records indicate that as of August 18, 1970, Petitioner has been convicted of one Federal Robbery charge and had a second Federal bank robbery charge and a State murder charge pending.

This Is ERROR because petitioner was taken to Connecticut from the State Of New Jersey on a writ of removal held in Bridgeport Correctional Institution and taken to Danbury Correctional Institution and given a Federal prison number with committment papers. A copy of the Federal order and charge of bank robbery (is attached hereto the Federal sentencing transcript shows how the petitioner asked to have all Federal charges disposed of before being released to State custody, October 2, 1970, Sentencing Date.

The petitioner was not arrested for excape and not held by Bridgeport Police. So he was not in state custody just held as a Federal holdover prisoner for one day. After being placed in Danbury petitioner waited to October 2, 1970 and was sentenced to 19 years No - 12, 577. Petitioner was paroled after Eight years and four months and not released.

The error is the way the State Supreme Court ruled, The petitioner was arrested in concurrant custody he was not convicted by a Federal Court, but only awaiting

trial at the time the defendant filed his plea, He had been convicted of the Federal charge and an appeal from that conviction was pending. The defendant contends that since the Federal case has not yet concluded he was still within Federal Court jurisdiction and could not be tried on State charges.
In State V. Reed, February 1978, 174 Conn, 287.
The writ of Habeas Corpus on file in Federal Court "States to be returned to State custody after trial". So the State Supreme Court is in error. Civil No - 13377.
Wherefore because of the forgoing facts and letters and exhibit the petitioner John Reed is being held and detained, and restrained of his liberty by the State Correctional Institution at Somers, Connecticut in violation of the United States Constitution and therefore Prays this petition be granted and the petitioner freed from custody.

Respectfully Submitted
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103 -240
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